

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ABBOTT DIABETES CARE INC. and
ABBOTT DIABETES CARE LIMITED,

Plaintiffs,

v.

DEXCOM, INC.,

Defendant.

C.A. No. 23-239 (KAJ)

DEXCOM, INC.,

Counterclaim-Plaintiff,

v.

ABBOTT DIABETES CARE INC. and
ABBOTT DIABETES CARE SALES CORP.,

Counterclaim-Defendants.

JOINT CLAIM CONSTRUCTION CHART

Pursuant to Paragraphs 11 and 12.a of the Court’s Amended Scheduling Order (D.I. 618), Plaintiffs and Counterclaim-Defendants Abbott Diabetes Care Inc., Abbott Diabetes Care Limited and Abbott Diabetes Care Sales Corp. (“Abbott”) and Defendant and Counterclaim-Plaintiff DexCom, Inc. (“DexCom”) submit their Joint Claim Construction Chart attached as Exhibit 1, which identifies the term(s)/phrase(s) of the claim(s) in issue and each party’s proposed constructions of the disputed claim language with citation(s) to the intrinsic evidence in support

of their respective proposed constructions. Copies of the patents in issue¹ as well as those portions of the intrinsic record relied upon are attached as exhibits as follows:

- Exhibit 1: Joint Claim Construction Chart
- Exhibit 2: U.S. Patent No. 11,202,591 (“the ’591 patent”)
- Exhibit 3: U.S. Patent No. 11,266,335 (“the ’335 patent”)
- Exhibit 4: U.S. Patent No. 11,298,056 (“the ’056 patent”)
- Exhibit 5: U.S. Patent No. 9,119,528 (“the ’528 patent”)
- Exhibit 6: U.S. Patent No. 9,801,541 (“the ’541 patent”)
- Exhibit 7: U.S. Patent No. 10,709,364 (“the ’364 patent”)
- Exhibit 8: U.S. Patent No. 11,002,031 (“the ’031 patent”)
- Exhibit 9: U.S. Patent No. 11,213,204 (“the ’204 patent”)
- Exhibit 10: U.S. Patent No. 11,510,625 (“the ’625 patent”)
- Exhibit 11: Excerpts from the prosecution history file of the ’591 patent
- Exhibit 12: Excerpts from the prosecution history file of the ’335 patent
- Exhibit 13: Excerpts from the prosecution history file of the ’056 patent
- Exhibit 14: Excerpts from the prosecution history file of the ’528 patent
- Exhibit 15: Excerpts from the prosecution history file of the ’541 patent
- Exhibit 16: Excerpts from the prosecution history file of the ’364 patent
- Exhibit 17: Excerpts from the prosecution history file of the ’031 patent
- Exhibit 18: Excerpts from the prosecution history file of the ’204 patent
- Exhibit 19: Excerpts from the prosecution history file of the ’625 patent
- Exhibit 20: Petition, DexCom, Inc. v. Abbott Diabetes Care Inc., IPR2023-01409 (PTAB) (“’591 Petition”)

¹ Neither party seeks to construe any terms in the asserted claims of DexCom’s U.S. Patent No. 10,375,222 (“the ’222 patent”).

- Exhibit 21: Petition, DexCom, Inc. v. Abbott Diabetes Care Inc., IPR2023-01396 (PTAB) (“’335 Petition (1)”)
- Exhibit 22: Petition, DexCom, Inc. v. Abbott Diabetes Care Inc., IPR2023-01397 (PTAB) (“’335 Petition (2)”)
- Exhibit 23 IPR2022-00909, Paper 38 (“’215 FWD”)
- Exhibit 24 IPR2022-00909, Paper 20 (“’215 POR”)
- Exhibit 25 IPR2022-00909, Paper 28 (“’215 PO Surreply”)
- Exhibit 26 U.S. Patent No. 10,702,215 (“’215 Patent”)
- Exhibit 27 Excerpts from the prosecution history file of U.S. Patent Application No. 16/457,628 (“the ’628 app.”)
- Exhibit 28 Excerpts from the prosecution history file of U.S. Patent No. 9,603,557 (“the ’557 patent”)
- Exhibit 29 IPR2022-00913, Paper 44 (“the ’213 FWD (1)”)
- Exhibit 30 IPR2022-00913, Paper 24 (“the ’213 POR (1)”)
- Exhibit 31 IPR2022-00914, Paper 45 (“the ’213 FWD (2)”)
- Exhibit 32 IPR2022-00914, Paper 24 (“the ’213 POR (2)”)
- Exhibit 33 IPR2022-00921, Paper 45 (“the ’642 FWD (1)”)
- Exhibit 34 U.S. Provisional Appl. 62/658,486
- Exhibit 35 IPR2022-00922, Paper 42 (“the ’642 FWD (2)”)
- Exhibit 36 D.I. 662, Joint Claim Construction Chart, DexCom, Inc. v. Abbott Diabetes Care, Inc., Case No. 22-605-KAJ, Exs. 1-4, 8, 12-15, 20-23, 25, 27-32, 40-41, 47-65 (D. Del. Feb. 9, 2024)
- Exhibit 37 Petition, Abbott Diabetes Care Inc. v. DexCom Inc., IPR2022-00913 (PTAB 2022) (“’213 Petition (1)”)
- Exhibit 38 Patent Owner’s Preliminary Response, Abbott Diabetes Care Inc. v. DexCom Inc., IPR2022-00913 (PTAB 2022) (“’213 POPR (1)”)
- Exhibit 39 Exhibit 2010, Abbott Diabetes Care Inc. v. DexCom Inc., IPR2022-00913 (PTAB 2022) (“’213 Baura Declaration”)

- Exhibit 40 Institution Decision, Abbott Diabetes Care Inc. v. DexCom Inc., IPR2022-00913 (PTAB 2022) (“’213 ID (1)”)
- Exhibit 41 Patent Owner’s Surreply ISO Patent Owner’s Response, Abbott Diabetes Care Inc. v. DexCom Inc., IPR2022-00913 (PTAB 2023) (“’213 PO Surreply”)
- Exhibit 42 Petition, Abbott Diabetes Care Inc. v. DexCom Inc., IPR2022-00921 (PTAB 2023) (“’642 Petition (1)”)
- Exhibit 43 Patent Owner Preliminary Response, Abbott Diabetes Care Inc. v. DexCom Inc., IPR2022-00921 (PTAB 2023) (“’642 POPR (1)”)
- Exhibit 44 Exhibit 2010, Abbott Diabetes Care Inc. v. DexCom Inc., IPR2022-00922 (PTAB 2023) (“’642 Baura Declaration”)
- Exhibit 45 U.S. Patent No. 11,000,213 (“’213 Patent”)
- Exhibit 46 U.S. Patent No. 10,993,642 (“’213 Patent”)
- Exhibit 47 Excerpts from Prosecution History of U.S. Patent No. 8,483,967 (’967 File History)
- Exhibit 48 U.S. Patent No. 8,483,967 (“’967 Patent”)
- Exhibit 49 U.S. Patent No. 9,310,230 (“’230 Patent”)
- Exhibit 50 U.S. Patent No. 10,194,844 (“’844 Patent”)
- Exhibit 51 Patent Owner’s Preliminary Response, Abbott Diabetes Care Inc. v. DexCom Inc., IPR2023-01251 (PTAB 2023)
- Exhibit 52 Decision Granting Institution of Inter Partes Review, DexCom, Inc. v. Abbott Diabetes Care Inc., IPR2023-01251 (PTAB 2023)
- Exhibit 53 Patent Owner’s Preliminary Response, Abbott Diabetes Care Inc. v. DexCom Inc., IPR2023-01252 (PTAB 2023)
- Exhibit 54 U.S. Provisional Appl. 61/747,717
- Exhibit 55 U.S. Patent No. 8,626,257 (“’257 Patent”)

The parties reserve the right to amend, modify, and/or supplement their identification of intrinsic evidence to take into account additional information that comes light, including without

limitation as additional contentions are made, facts are ascertained, analyses are made, and proposed constructions are provided. Further, the parties reserve the right to rely on the evidence identified by opposing parties to support their constructions.

The parties further reserve the right to assert invalidity arguments under 35 U.S.C. §§ 101 and 112, including at the summary judgment stage.

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